

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

GREGORY EUGENE DORSEY,

Petitioner,

v.

//

CIVIL ACTION NO. 1:07CV82
(Judge Keeley)

JOE DRIVER, Warden

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

On June 19, 2007, Gregory Dorsey ("Dorsey"), the pro se petitioner and an inmate at USP-Hazelton, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. In that petition, he asserted that the Bureau of Prisons ("BOP") had improperly calculated his sentence by failing to credit him with 137 days of time served. As a remedy, Dorsey sought immediate release from prison. Pursuant to LR PL P 83.09 and Standing Order No. 2, Dorsey's petition was referred to United States Magistrate Judge John S. Kaull.

After granting Dorsey permission to proceed in forma pauperis, Magistrate Judge Kaull directed the parties to brief the issue. Before a Report and Recommendation (R&R) was entered, however, on December 20, 2007, Dorsey was released from incarceration. Shortly before his release, Dorsey filed a new address with the Court.

On August 14, 2008, Magistrate Judge Kaull issued his R&R recommending that Dorsey's petition be denied and dismissed with prejudice (dkt. no. 17). First, he concluded that the relief sought by Dorsey could no longer be granted, given Dorsey's

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release, and, accordingly, that his claims were now moot. Furthermore, Magistrate Judge Kaul found that, even if the claim was not moot, no relief would be granted because the BOP had properly calculated Dorsey's sentence.

On August 14, 2008, the R&R was mailed to the most recent address provided by Dorsey, and informed Dorsey that failure to object would result in the waiver of his appellate rights on this issue. On August 23, 2008, the United States Postal Service returned this document marked "undeliverable".

In the "Notice of General Guidelines for Appearing Pro Se in Federal Court," sent to Dorsey on June 19, 2007, the Clerk of the Court directed the petitioner to "[k]eep the Court and opposing counsel advised of your most current address at all times. Failure to do so may result in this action being dismissed without prejudice." As of this date, Dorsey has not provided a current address to the Court.

Ordinarily, because Dorsey failed to provide a current address to the Court, it would dismiss his claims without prejudice. However, in this case, because Dorsey's claims are now moot, the Court **ADOPTS** the R&R in its entirety and **ORDERS** this case **DISMISSED WITH PREJUDICE** from the Court's docket.

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The Court **DIRECTS** the Clerk to transmit a copy of this order to the pro se petitioner, certified mail, return receipt requested, and to transmit copies of this Order to counsel of record.

Dated: October 7, 2008.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE